

IOWA PUBLIC INFORMATION BOARD[497]

Adopted and Filed

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 2, “Complaint Investigation and Resolution Procedures,” Iowa Administrative Code.

Items 1, 3 and 4 update references in Chapter 2. Item 2 clarifies that members of the Board serve in a quasi-judicial capacity during the complaint process and do not play a role in helping to resolve complaints. The amendment also clarifies that statements made during the informal resolution process may be disclosed to the Board, except that offers to settle a complaint may not be presented or used as evidence that a violation occurred.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on June 24, 2015, as **ARC 2040C**. The Board received no public comment on the proposed amendments. In Item 2 as part of the new language of subrule 2.2(1), the word “information” was changed to “informal” to correct a previous typographical error. The sentence now reads: “Offers to settle a complaint during the informal resolution process or as part of a settlement negotiation under rule 497—2.4(23) shall not be presented either to the board or admitted in a subsequent contested case proceeding as evidence that a violation of Iowa Code chapters 21 or 22 or rules of the board has occurred.”

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 23.6.

These amendments shall become effective on October 21, 2015.

The following amendments are adopted.

ITEM 1. Amend rules **497—2.2(84GA,ch1115)** and **497—2.4(84GA,ch1115)**, parenthetical implementation statute, as follows:

(84GA,ch1115 23)

ITEM 2. Amend subrule 2.2(1) as follows:

2.2(1) Referral to staff. Upon acceptance of a complaint, the ~~board shall work with the executive director~~ board’s staff shall work with the complainant and the subject of the complaint toward an informal, expeditious resolution. If the complaint is not resolved, the staff shall initiate an investigation to determine whether there is probable cause to believe a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred.

~~a. Statements inadmissible and confidential. — Statements made in the course of discussions undertaken to attempt to reach an informal, expeditious resolution cannot be admitted in subsequent contested case proceedings and shall not be related by any participating board member or staff to nonparticipating board members who may later be assigned to hear and decide the contested case~~ Offers to settle a complaint during the informal resolution process or as part of a settlement negotiation under rule 497—2.4(23) shall not be presented either to the board or admitted in a subsequent contested case proceeding as evidence that a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred.

~~b. —Board member participation. A board member who participates in discussions undertaken to attempt to reach an informal, expeditious resolution shall not participate in subsequent contested case proceedings or any appeal from a proposed decision to the full board.~~

ITEM 3. Amend rule 497—2.3(84GA,ch1115) as follows:

497—2.3(84GA,ch1115 23) Civil penalties and other appropriate remedies. If it is determined after a contested case proceeding that a violation of statute or rule under the board’s jurisdiction has occurred, the board may impose any of the remedies set out in ~~2012 Iowa Acts, chapter 1115, section 9(8) or section 13(3b).~~ Iowa Code section 23.6(8) or 23.10(3) “b.”

ITEM 4. Amend ~~497~~—**Chapter 2**, implementation sentence, as follows:
These rules are intended to implement ~~2012 Iowa Acts, chapter 1115~~ Iowa Code chapter 23.

[Filed 8/21/15, effective 10/21/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.